



City of San Antonio

Agenda Memorandum

Agenda Date: April 22, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

CASE NUMBER: BOA-24-10300053

APPLICANT: Janie Cortez

OWNER: Janie Cortez

COUNCIL DISTRICT IMPACTED: District 3

LOCATION: 907 Greer Street

LEGAL DESCRIPTION: Lot 7, NCB 8414

ZONING: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

CASE MANAGER: Colton Unden, Planner

A request for

A fence material variance to allow a corrugated metal fence along side and rear yard.
Section 35-514(a)(6)

Executive Summary

The subject property is located along Greer Street, east of South New Braunfels Avenue. The applicant built a corrugated metal fence without a permit and code enforcement started an investigation and issued a notice to the applicant in March 2024 (INV-PBP-24-3100001536). Corrugated metal is not a permitted fence material in the City of San Antonio. No other use of prohibited fencing material was observed in the area.

Code Enforcement History

INV-PBP-24-3100001536 (Building Without a Permit)

Permit History

The applicant has not yet applied for the building permit.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

Existing Use

Single-Family Residence

Surrounding Property Zoning/ Land Use**North****Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

Existing Use

Single-Family Residence

South**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

Existing Use

Single-Family Residence

East**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

Existing Use

Single-Family Residence

West**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

Existing Use

Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Highlands Community Plan and is designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Highland Park Neighborhood Association, and they have been notified of the request.

Street Classification

Greer Street is classified as a local road.

Criteria for Review – Fence Materials Variance

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest.*

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by restricted fence materials to provide uniformity within a community. The request is contrary to the public interest, as corrugated metal is a prohibited material for fence construction and would be uncharacteristic of the surrounding area if allowed.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Staff found no special conditions on the subject property that would warrant the applicant to construct a fence in the rear and side yards with prohibited fence materials. While the fence height surrounding the property is permitted it must be constructed with permitted materials.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The fence does not appear to observe the spirit of the ordinance, as it is constructed from prohibited fencing materials.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

No uses other than those allowed within the district will be allowed with this variance.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

Staff finds the granting of the variances will substantially injure the appropriate use of adjacent conforming properties and alter the essential character of the district in which the property is located, as the fence is constructed of prohibited fencing materials as defined in the Unified Development Code Section 35-514(a)(6). Upon visiting the site, staff found no fences constructed of corrugated metal in the immediate surrounding area.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the*

owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.

Staff finds the plight of the owner of the property for which the variance is sought is not due to unique circumstances existing on the property, as there are approved fence materials for constructing a fence outlined in the Unified Development Code Section 35-514(a)(6). There are fences constructed within the Unified Development Code's guidelines in the immediate surrounding area.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Fence Regulations of the UDC Section 35-514 (a)(6).

Staff Recommendation – Fence Materials Variance

Staff recommends Denial in BOA-24-10300053 based on the following findings of fact:

1. Upon site visits, staff did not observe any other corrugated metal fencing in the immediate area, and
2. The fence was constructed without obtaining a residential fence permit, and
3. The variance will alter the essential character of the neighborhood.